

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

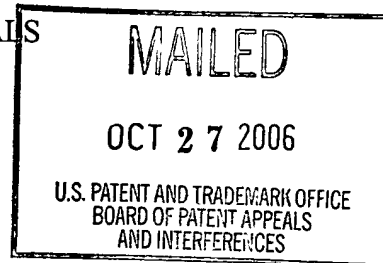
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Ex parte: NORIYA HAYASHI

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Application No. 09/664,332

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on October 19, 2006. A review of the application has revealed that the application is not ready for review and consideration. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

INFORMATION DISCLOSURE STATEMENT

Appellant filed an Information Disclosure Statement (IDS) dated May 1, 2006. There is no indication on the record that the above Information Disclosure Statement was considered by the Examiner. A written communication notifying appellant of the Examiner's consideration is required.

APPEAL BRIEF

An Appeal Brief was filed on November 22, 2005, under the rules set forth in 37 CFR § 41.37(c). However, a review of the Appeal Brief reveals that it is not in compliance with the new rules under 37 CFR § 41.37(c), which states:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section.

A review of the appellant's Appeal Brief reveals that the following required appendix is missing:

37 CFR § 41.37(c)(1)(x), which is identified in the rules as:

(x) ***Related proceedings appendix.*** An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

Section 37 CFR § 41.37(c) further states:

(d) If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed .

It is required that a Supplemental Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c).


CONCLUSION

Accordingly, it is

**ORDERED** that the application is returned to the examiner for:

- 1) consideration and proper written response to the identified Information Disclosure Statement dated May 1, 2006 is required; and
- 2) to notify appellants of such consideration;
- 3) hold the Appeal Brief filed May 15, 2006 incomplete;
- 4) notify appellants to file a Supplemental Appeal Brief in compliance with 37 CFR § 41.37; and
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

  
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DMS/dpv

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